IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JURISDICTION

Dated: Nainital the May 16th, 2006

Criminal Misc. Bail Application No.326 of 2006

Order on the bail application of accused

CRIMINAL SIDE

Naim S/o Azij Ahmad
R/o Ward No.1
Kelakhera, P.S. Bajpur
District U.S. Nagar ..……Applicant

Versus

State of Uttaranchal ……..Opposite Party

Arising out of case crime No.200 of 2006
Under Sections 302 IPC
P.S. Bajpur
District U. S. Nagar

Hon'ble J. C. S. Rawat, J.

Heard Smt. Pushpa Joshi learned counsel for the applicant and learned A.G.A. for the State.

Perused the record. The case diary is available with the learned AGA. According to the prosecution version, the marriage of the deceased was solemnized with Sanim Ahmad about ten years ago from the date of incident. It has been stated in the FIR that the complainant received a phone call of his 'Fufa' namely Mohd. Usman Ali that his sister had been burnt by her in-laws and she had been admitted in the hospital. It is alleged that Mohd. Usman Ali has stated in his statement recorded under section 161 Cr.P.C. that when the deceased was on the way to hospital for treatment, she stated that her in-laws had burnt her. The complainant has stated that the deceased has stated in the hospital that burn injuries were caused by her in-laws. It was contended on behalf of the applicant that Mohd. Usman Ali had informed the complainant about the incident, as a matter of fact he had set the criminal law in motion on the date of incident. But, the police has stated that his statement was recorded after an inordinate delay of 24 **days.** It was further contended that the statement of Mohd. Usman Ali was recorded to show that the deceased had made a dying declaration to him. It was further contended that the said statement was recorded with an inordinate

delay and it cannot be relied upon. It was further contended that the deceased was admitted to hospital and no dying declaration was recorded by the doctor and the magistrate. The prosecution could not show me that the dying declaration was recorded by any competent authority. It was contended on behalf of the applicant that the statement indicated above is an afterthought. Considering the contentions, facts and circumstances of the case, it is a fit case for bail.

Let the applicant-accused be released on bail on executing a personal bond and two sureties each in the like amount to the satisfaction of the Magistrate concerned.

(J.C.S. Rawat, J.)

Dated 16.05.2006

LSR